

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

|                              |                              |
|------------------------------|------------------------------|
| APPLE INC.,                  | )                            |
|                              | )                            |
| Plaintiff,                   | )                            |
|                              | )                            |
| v.                           | ) C.A. No. 22-1378-MN        |
|                              | )                            |
| MASIMO CORPORATION and       | ) <b>JURY TRIAL DEMANDED</b> |
| SOUND UNITED, LLC,           | )                            |
|                              | )                            |
| Defendants.                  | )                            |
|                              | )                            |
| <hr/>                        |                              |
| MASIMO CORPORATION and       | )                            |
| CERCACOR LABORATORIES, INC., | )                            |
|                              | )                            |
| Counter-Claimants,           | )                            |
|                              | )                            |
| v.                           | )                            |
|                              | )                            |
| APPLE INC.,                  | )                            |
|                              | )                            |
| Counter-Defendant.           | )                            |

**PLAINTIFF APPLE INC.'S MOTION TO**

- (1) **SEVER MASIMO'S 16 UNRELATED ANTITRUST, FALSE ADVERTISING,  
AND PATENT INFRINGEMENT COUNTERCLAIMS AND**
- (2) **STAY MASIMO'S PATENT INFRINGEMENT COUNTERCLAIMS RELATED  
TO OTHER INFRINGEMENT COUNTERCLAIMS ALREADY STAYED  
PURSUANT TO 28 U.S.C. § 1659**

Plaintiff and Counterclaim Defendant Apple Inc. (“Apple”) moves to (1) sever Defendant Masimo Corporation’s (“Masimo”) antitrust, false advertising, and patent infringement counterclaims (i.e., the First through Sixteenth Counts) and (2) stay Masimo’s patent infringement counterclaims related to those the Court has already stayed pursuant to 28 U.S.C. § 1659 (i.e., the Tenth, Twelfth, Fourteenth, Fifteenth, and Sixteenth Counts). In support of the instant motion to sever and stay, Apple submits the following:

- Apple’s Opening Brief in Support of Its Motion to Sever and Stay;

- The Declaration of Jordan N. Malz in Support of Apple's Motion to Sever and Stay, and all exhibits attached thereto (Exhibits 1-4); and
- A proposed order.

Apple respectfully requests that the Court grant this motion as further described in Apple's opening brief.

Respectfully submitted,

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